Office - Supreme Court, U.S.
FILED
MAY 25 1983
ALEXANDER L. STEVAS,
CLERK

82-1990

IN THE

Supreme Court of the United States

ROBERT RUSSELL AUSTIN,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

BELL AND HUDSON, P.C.
By: Edward F. Bell (P-10652)
Attorney for Petitioner
Suite 840 Buhl Building
Detroit, Michigan 48226
(313) 962-2240

THE INLAND PRESS, DETROIT, MICHIGAN

TABLE OF CONTENTS

	Page
Questions Presented	ii
Table of Authorities	iii
Opinion Below	1
Jurisdiction	2
Constitutional Provisions	2
Statement of the Case	2
Reasons for Allowance of the Writ	5
Conclusion	11
Appendix	1a

QUESTIONS PRESENTED

I.

WHETHER THE PROSECUTOR'S FAILURE TO DISCLOSE AN APPARENT PROMISE OF LENIENCY MADE TO A KEY PROSECUTION WITNESS WAS SUFFICIENTLY PREJUDICIAL TO DEPRIVE PETITIONER AUSTIN OF A FAIR TRIAL AS GUARANTEED BY THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT.

The Petitioner says "Yes."

The Respondent says "No."

II.

WHETHER ATTORNEY BORDOLEY'S ACTIONS AND INACTIONS VIOLATED PETITIONER AUSTIN'S SIXTH AMENDMENT RIGHT TO EFFECTIVE ASSISTANCE OF COUNSEL.

The Petitioner says "Yes."

The Respondent says "No."

TABLE OF AUTHORITIES

	Page
Beasley v *United States*, 491 F.2d 687 (6th Cir. 1974)	9
Giglio v *United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1972)	5, 7, 8, 11
McMann v *Richardson*, 397 U.S. 759, 90 S.Ct. 1441, 25 L.Ed. 2d 763 (1970)	9
Powell v *Alabama*, 287 U.S. 42, 53 S.Ct. 55, 77 L.Ed. 158 (1932)	9
United States v *Butler*, 567 F.2d 885 (9th Cir. 1978)	7, 8
United States v *DeCoster*, 487 F.2d 1197 (D.C. Cir. 1973)	9
United States v *Forsythe*, 594 F.2d 947 (3d Cir. 1979)	10
United States v *Ramos Algarin*, 584 F.2d 562 (1st Cir. 1978)	6, 7

IN THE

Supreme Court of the United States

ROBERT RUSSELL AUSTIN,

Petitioner,

vs.

UNITED STATES OF AMERICA,

Respondent.

PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Here comes the Petitioner, ROBERT RUSSELL AUSTIN, by and through his attorneys, BELL & HUDSON, P.C., and respectfully prays that a Writ of Certiorari issue to review the judgment and opinion of the United States Court of Appeals for the Sixth Circuit entered in this proceeding on March 2, 1983.

OPINION BELOW

United States v *Robert Russell Austin*, No. 82-1080 (6th Cir. March 2, 1983). Published at , F.2d , (1983) appended hereto.

JURISDICTION

On March 2, 1983, the United States Court of Appeals for the Sixth Circuit entered an order affirming the Petitioner's conviction. On May 3, 1983, the Honorable Sandra D. O'Connor entered an order extending the time in which the petition for Writ of Certiorari can be filed to May 31, 1983. This petition is being filed within the extended time limit and seeks to invoke this court's jurisdiction under 28 U.S.C. §1254(1).

RELEVANT CONSTITUTIONAL PROVISIONS

AMENDMENT (V.)

No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a Grand Jury, except in cases arising in the land or naval forces, or in the Militia, when in actual service in time of War or public danger; nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, *nor be deprived of life, liberty, or property, without due process of law;* nor shall private property be taken for public use, without just compensation. U.S. Const. Amend. V.

AMENDMENT (VI.)

In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the nature and cause of the accusation; to be confronted with the witnesses in his favor, *and to have the Assistance of Counsel for his defense.* U.S. Const. Amend. VI.

STATEMENT OF THE CASE

On April 30, 1981, the Petitioner, ROBERT RUSSELL AUSTIN, was indicted and charged with mail fraud in viola-

tion of 18 U.S.C. §1341[1] as well as conspiracy to violate 18 U.S.C. §1962(c)[2]. Also named in the indictment were Will Franklin Ulmer, Lonnie Ervin, James Veal and Theodore Roosevelt McAdoo.

A jury trial was held in the United States District Court, Eastern District of Michigan before the Honorable Ralph B. Guy, Jr., and continued for a month. On October 21, 1981, the Petitioner was found not guilty on three of the mail fraud counts, but was convicted on the remaining fifteen mail fraud counts as well as the conspiracy charge. On January 15, 1982, the Petitioner was sentenced to serve thirty (30) months in a federal prison.

The government's key witness at the trial was Gwendolyn Clemens, a major co-conspirator who was granted immunity in exchange for her testimony (Tr. at 39). Clemens testified that the Petitioner was an active participant in the arson-for-profit scheme because he adjusted fires knowing that the contents lists were false. (Tr. at 53-57, 61).

Petitioner Austin testified that he had no knowledge that any of the fires listed on the indictment were deliberately set. (Tr. at 903). The Petitioner is a licensed public adjuster and

---

[1]18 U.S.C. 1341 states in relevant part that:

> Whoever, having devised or intending to devise any scheme or artifice to defraud or for obtaining money or property by means of false or fraudulent pretenses, representations, or promise, for the purpose of executing such scheme or artifice or attempting so to do, places in any post office or authorized depository for mail matter, any matter or thing whatever to be sent or delivered by the Postal Service, or takes or receives therefrom, any such matter or thing, or knowingly causes to be delivered by mail according to the direction thereon, or at the place at which it is directed to be delivered by the person to whom it is addressed, any such matter or thing, shall be fined not more than $1,000.00 or imprisoned not more than five years, or both.

[2]18 U.S.C. 1962(c) states in relevant part that:

> (c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interestate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

has been adjusting fire losses on behalf of homeowners since 1960. (Tr. at 900). During his tenure as a public adjuster, the Petitioner has adjusted thousands of fires. As far as he was concerned, there was nothing out of the ordinary in the processing of the claims listed on the indictment. Both the Petitioner and his partner, Sadie Guinn, testified that whenever a fire job was brought into the office, the arson squad was contacted before the claim was processed. (Tr. at 905, S.G. dep.). Out of the 120 fires which Clemens, Ulmer and Ervin allegedly set, the Petitioner only adjusted thirteen fires. (Tr. at 221). This accounts for only ten percent of the fires, which is less than any of the other adjusters that the organization used. (Tr. at 221).

As for the documentary evidence, Sadie Guinn testified that she often signed the Petitioner's name to contents lists or contracts (S.G. dep.) since he was periodically out of the office due to illness. (Tr. at 951-52). Thomas Krinock, an insurance adjuster, testified that on the contents portion of the claim, he dealt with Sadie Guinn. (Tr. at 516).

Clemens' credibility was, therefore, critical to the outcome of the case. The jury, however, was not apprised of everything that Clemens had to gain from testifying against the Petitioner. The government revealed that Clemens had been given immunity in relation to this trial. (Tr. at 39). On cross-examination, however, Clemens stated that no one promised her leniency and she may well be prosecuted as a result of her testimony. (Tr. at 104).

More importantly, the government did not reveal another promise of leniency that was apparently made to Clemens. In August of 1978 Clemens pled guilty to delivery of heroin and conspiracy to deliver heroin. (Tr. at 326). Merely one month later she contacted the Drug Enforcement Agency and sought to reveal the arson-for-profit scheme. Her initial contact was with the DEA rather than the FBI. (Tr. at 105). Subsequently she spoke with an FBI agent, Joe Finnigan. (Tr. at 105).

Clemens testified that she was not yet sentenced on the state narcotics conviction because Joe Finnigan from the FBI "has handled it." (Tr. at 107). Almost five years later, Clemens still has not been sentenced. The sentencing date has been continuously adjourned at the prosecution's insistence. (See docket sheet attached hereto.) The government, however, never revealed that it made any promises to Clemens regarding her state conviction.

The Petitioner was convicted on January 15, 1982 and a notice of appeal was filed on January 19, 1982. After hearing oral arguments, the Court of Appeals affirmed the Petitioner's conviction on March 2, 1983.

REASONS FOR ALLOWANCE OF THE WRIT

SINCE THE COURT OF APPEALS ERRED IN ITS APPLICATION OF *GIGLIO* v *UNITED STATES* IT IS INCUMBENT UPON THIS COURT TO CLARIFY THE CIRCUMSTANCES UNDER WHICH AN UNDISCLOSED PROMISE MANDATES REVERSAL.

In *Giglio* v *United States*, 405 U.S. 150, 92 S.Ct. 763, 31 L.Ed. 2d 104 (1972), the Supreme Court held that the prosecution's failure to disclose a promise of leniency made to its key witness violated the Due Process clause of the Fifth Amendment. *Id.* at 155. In *Giglio, supra*, an assistant United States Attorney, who apparently lacked authority, promised the government's key witness leniency if he testified in the government's behalf. This promise was not disclosed to the jury. The Court held that regardless of whether the particular assistant United States Attorney lacked authority to make such a promise, his promise was attributable to the government as a whole. *Giglio* at 154. Therefore, the government's failure to disclose the promise to the jury mandated a new trial. *Id.* at 155.

The lower courts have tried to devise tests under which they can determine if there as been a *Giglio* violation. These tests, however, lack uniformity in their application of the *Giglio*

decision. The First Circuit in *United States* v *Ramos Algarin*, 584 F.2d 562 (1st Cir. 1978) enunciated a two-prong test for determining whether there is a denial of Due Process under *Giglio*. The first prong is whether there is a promise of leniency which was made but not disclosed. The second prong is whether the failure to disclose could have any reasonable likelihood of affecting the jury's decision. *Ramos Algarin*, *supra* at 564.

The Ramos Algarin court indicated that the first step could be satisfied if the circumstances surrounding the case "give ground for suspicion that an undisclosed promise may have been made." *Id.* at 564. If such circumstances exist, then further inquiry is required. *Id.* at 565. The court seems to be indicating that if the defendant can put forth sufficient evidence which indicates that a promise was made, then the burden shifts to the government to show that it made no such promise. *Id.* at 564-65.

In the instant case, the government disclosed that Clemens was given immunity in the arson conspiracy case. (Tr. at 39). Yet at a later point, Clemens stated that no one promised her leniency and that she may very well be prosecuted in the future. (Tr. at 104). Furthermore, it is apparent that Clemens was made an additional promise of leniency beyond the grant of immunity on the arson conspiracy charge. The trial revealed that in August of 1978, Clemens pled guilty to delivery of heroin and conspiracy to deliver heroin in Recorder's Court for the City of Detroit. (Tr. at 326). One month later, in an obvious, self-serving attempt to make a deal in relation to her narcotics conviction, she contacted the Drug Enforcement Agency and asked to speak to someone from the FBI. Clemens revealed the alleged arson-for-profit scheme to Joe Finnigan from the FBI. (Tr. at 105). She further testified that she was not sentenced on her narcotics conviction because Joe Finnigan from the FBI "has handled it". (Tr. at 107). Almost five years after Clemens' plea was taken, she still has not been

sentenced. The sentencing date has been continuously adjourned since the time of the plea at the government's insistence. *See* docket sheet. Despite all this evidence, the government still contends that no additional promise of leniency was made to Clemens.

The Sixth Circuit, in affirming the Petitioner's conviction, held that the "allegations of an undisclosed promise do not approach the specificity of the allegations made in *Giglio*. The appellant's argument that an undisclosed promise was made are conclusory and without any factual support in the record." (Court's opinion at 4.)

This strict burden of proof that the Sixth Circuit places on the defendant is in conflict with that required by the First Circuit in *Ramos Algarin, supra*. As discussed *supra*, if the circumstances give grounds for suspicion that a promise was made, further inquiry is required. *Ramos Algarin, supra* at 564-65. In the instant case, the facts that Clemens has not been sentenced almost five years after her conviction and that she initiated the contact with a DEA agent gives rise to a strong inference that an additional promise of leniency was made. The burden should shift to the government to show that it made no such promise.

The Sixth Circuit held that even if such a promise was made "there was sufficient disclosure of Clemens' self-interest from which the jury could adequately judge her credibility." (Court's opinion appended hereto at 4). This indicates that the Sixth Circuit believed that the jury did not have to be fully apprised of Clemens' self-interest. In *United States* v *Butler*, 567 F.2d 885 (9th Cir. 1978), the court stated that the proper standard for determining whether the nondisclosure was sufficient to mandate a new trial is whether the "evidence might reasonably have affected the jury's judgment on a material point, without necessarily requiring a supplementary finding that it also would have changed its verdict." *Id.* at 890.

Once there is a determination that an undisclosed promise

was made, the sole inquiry should be whether that promise could have affected the jury's assessment of credibility. *Butler, supra* at 390. The government's evidence in this case was primarily dependent on Clemens' testimony. Although, there may have been corroborative documentary evidence it was Clemens' testimony "which made them legally and factually relevant and established the atmosphere in which they were interpreted." *Butler, supra* at 890. Clemens' credibility was, therefore, outcome-determinative and the undisclosed promise would have affected the jury's assessment of her credibility.

Although Clemens eluded to the fact that "Joe Finnigan has handled it" (Tr. at 107), the jury was not aware of any of the conditions upon which this apparent promise of leniency was based. It is clear from the events that transpired that this promise of leniency was premised upon Clemens' willingness to give favorable testimony in Petitioner Austin's trial. She obviously was willing to accommodate the government since she would be freed from the narcotics charge as well as the arson conspiracy charge. When the government stated on the record that Clemens was given immunity on the arson conspiracy charge, the government was bound to honor that promise. Any chance that Clemens would perjure herself was minimized. In regards to the narcotics conviction, however, the government was silent. Clemens realized that the government was not bound to honor that "bargain" until after she incriminated Petitioner Austin. The government used Clemens' state narcotics case like the sword of Damocles, hanging it over her head until satisfactory testimony was extracted from her in the Petitioner's trial. Clemens was in a very precarious position, yet the jury was not aware of it. The special circumstances surrounding the second promise were reasonably likely to affect the jury's assessment of credibility. *Giglio, supra* at 109; *Butler, supra* at 889.

The Sixth Circuit's decision is in conflict with the Ninth and First Circuit's interpretation of *Giglio* v *United States,*

supra. The Court should, therefore, grant a Writ of Certiorari pursuant to Rule 17 and review the issues presented in this case.

II.
THIS COURT HAS HELD THAT THE SIXTH AMENDMENT GUARANTEES EFFECTIVE ASSISTANCE OF COUNSEL, BUT HAS NOT YET SET A STANDARD FOR MAKING THAT DETERMINATION.

The Sixth Amendment guarantees all criminal defendants the right "to have the assistance of counsel for his defense." This Court has interpreted that clause to mean the *effective* assistance of counsel. *Powell* v *Alabama*, 287 U.S. 42, 53 S.Ct. 55, 77 L.Ed 158 (1932); *McMann* v *Richardson*, 397 U.S. 759, 90 S.Ct. 1441, 25 L.Ed. 2d 763 (1970). This Court has never enunciated the standard to be applied in determining whether a defendant was deprived of his right to the effective assistance of counsel, and the lower courts are split on the issue. *Contra, United States* v *DeCoster*, 487 F.2d 1197 (D.C. Cir. 1973); *Beasley* v *United States*, 491 F.2d 687 (6th Cir. 1974).

The ineffective assistance standard used by the Sixth Circuit is whether counsel was reasonably likely to render effective assistance. *Beasley* v *United States*, 491 F.2d 687, 696 (6th Cir. 1974). Several of Attorney Bordoley's actions and inactions deprived Petitioner Austin of his right to effective assistance of counsel and a fair trial.

Bordoley's most egregious error was his failure to ascertain the exact promise of leniency made to Clemens in regards to her narcotics conviction. Since Clemens was the government's key witness, her reasons for cooperating were crucial to her credibility. Clemens testified that Joe Finnigan from the FBI had handled her narcotics convictions. (Tr. at 107). Bordoley, however, failed to call Finnigan to testify. His testimony was crucial to Petitioner Austin's defense since it would have called into question Clemens' credibility. Any reasonable attorney would have called Finnigan to the stand. In a case where

the government's proofs were almost exclusively dependant on Clemens' testimony, Bordoley's failure to call Finnigan denied Petitioner Austin effective assistance of counsel.

As a further result of Bordoley's incompetence, evidence that related to uncharged crimes were admitted into evidence. While cross-examining Clemens, Bordoley asked a series of questions that related to uncharged fires.

> (By Mr. Bordoley)
>
> Q. We have talked here or you have made a statement that there were 1,000 fires that you know about?
>
> A. Yes.
>
> Q. And this so-called company of yours was involved in approximately 120 of them?
>
> A. Yes.
>
> (Tr. at 217-18)

Since Bordoley was careless enough to explore the matter of uncharged crimes on cross-examination, the court ruled that questions relating to said fires were proper redirect. (Tr. at 274). The following testimony was therefore admitted into evidence.

> (By Mr. Liebson)
>
> Q. Miss Clemens, I believe the question had to do with the indictment. There were some sixteen fires listed there. Are those the only fires that your particular group was involved in?
>
> A. No, it's not.
>
> Q. In the period from September, '74 to September '75, I believe the indictment lists some four fires that you say Mr. Austin was involved in adjusting. Were there any others during that period of time Mr. Austin was also involved in?
>
> A. Yes.

But for Bordoley's incompetence, this extremely prejudicial testimony would not have been admitted into evidence. *See United States* v *Forsythe,* 594 F.2d 947, 952 (3rd Cir. 1979), where the court held that reversible error was committed when the trial court admitted evidence of uncharged crimes.

Bordoley also waived the Petitioner's right to appellate review of sufficiency of the evidence, by not renewing his motion for a directed verdict at the close of defendant's case.

Finally, Attorney Bordoley's cross-examination of Clemens was inadequate. Clemens was the government's witness against Petitioner Austin. Bordoley, however, was not adequately prepared to impeach her testimony. For example, in relation to Clemens' narcotics conviction, it was Attorney Burns and not Bordoley who discovered the discrepancy between Clemens' testimony and her actual guilty plea. Clemens pled guilty to delivery of heroin and conspiracy to deliver heroin. (Tr. at 326). She had, however, testified that she pled guilty to intent to deliver cocaine. (Tr. at 106). For all the above reasons, Bordoley's representation of the Petitioner did not amount to reasonably effective assistance.

CONCLUSION

In order to resolve the conflicting applications of the Due Process requirement of *Giglio* v *United States*, as well as the Sixth Amendment, Right to Effective Assistance of Counsel, this Petition for a Writ of Certiorari should be granted.

Respectfully submitted,
BELL & HUDSON, P.C.
By: /s/ EDWARD F. BELL
(P-10652)
Attorney for Appellant
Suite 840 Buhl Building
Detroit, Michigan 48226
(313) 962-2240

Dated: May 23, 1983

82-1080

UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

Filed March 2, 1983, John P. Hehman, Clerk

UNITED STATES OF AMERICA,
Plaintiff-Appellee,

v.

ROBERT RUSSELL AUSTIN,
Defendant-Appellant.

ORDER

BEFORE: KEITH and KENNEDY, Circuit Judges and SPEIGEL*.

This case arises out of a multi-count indictment against several defendants charging them with one count of conspiracy in violation of 18 U.S.C. §1962(d), one count of "use of an enterprise through a pattern of racketeering activity" in violation of 18 U.S.C. §1962(c), one count of investment of income derived from a pattern or racketeering in violation of 18 U.S.C. §1962(a), and twenty-three counts of mail fraud in violation of 18 U.S.C. §1341. The defendant-appellant was convicted of participation in the conspiracy and fifteen counts of mail fraud. We affirm.

The government's indictment charged that Will Ulmer, Lonnie Ervin, and Gwendolyn Clemens set up an unnamed land investment company or partnership in Detroit, Michigan. The company's purpose was to conduct the business affairs of the group. The only business the group conducted was an illegal arson-for-profit scheme. The insurance proceeds collected from the arsons were used to purchase other homes. These homes were also burned. In order to conceal who owned the partnership, the real estate was placed in the names of relatives and friends of the members of the group.

The Appellant, Robert Russell Austin, was a licensed public

*Hon. S. Arthur Spiegel, U.S. District Judge, Southern District of Ohio, sitting by designation.

adjuster who had been adjusting fires since 1960. Austin adjusted thirteen of the fires set by the conspirators. He maintains that he was unaware of any arson-for-profit scheme. However, the government charged that Austin knew of the fraudulent scheme and was an active participant who provided assistance and advice.

The Government's case was built around the testimony of Gwendolyn Clemens. Clemens testified that Austin was aware of the submission of false contents lists, that he was made aware of impending fires, that documents submitted listing various persons as the owners of houses and their contents were submitted without these persons ever talking to Austin, and that Austin charged the enterprise an 8% commission rather than the normal 10%.

On the other hand, Austin's attorney sought to impeach Clemens. He noted that she had stated that Austin and Ulmer were moving some furniture from a house. Defense counsel attempted to show that Austin was recovering from a gunshot wound at the time and could do no lifting. He also noted that Clemens testified that she did not disclose that the fires were arsons. And he argued that Clemens' testimony regarding conversations with Austin were contradictory.

The appellant contends that there appears to be some undisclosed promise of leniency which the government held over Clemens' head like the "sword of Damocles." The appellant does not cite any specific agreement, but relies on the fact that Clemens has not yet been sentenced on a narcotics charge in the state court. The sentencing hearing has been postponed several times. According to the appellant, this is evidence of a promise of leniency which was not disclosed to the jury.

On the other hand, the government disputes that it made any agreement which was not disclosed to the jury. The government makes the following argument in its brief:

> In resolving this issue, it must first be noted that the only promise made by any agent of the United States

> Government to Clemens was the one stated to the jury: that she was immunized relative to the arson scheme. Nonetheless, Clemens' testimony indicates that she may have believed she had some additional agreement concerning the pending State charges. It is difficult to understand defendant's claim that this constituted a prejudicial denial of his right to due process since the alleged promise of leniency was disclosed to the jury.

In *Giglio* v *United States*, 405 U.S. 150 (1972), the Supreme Court set up a two-step analysis for resolving this issue. First, it must be determined if the government made an undisclosed promise to a witness. Second, the court must determine if the undisclosed promise had any reasonable likelihood of affecting the jury. *See United States* v *Ramos Algarin*, 584 F.2d 562 (1st Cir. 1978); *United States* v *Bynum*, 567 F.2d 1167 (1st Cir. 1978).

The appellant's allegations of an undisclosed promise do not approach the specificity of the allegations made in *Giglio*. The appellant's argument that an undisclosed promise of leniency was made are conclusory and without any factual support in the record. Moreover, it appears that there was sufficient disclosure of Clemens' self-interest from which the jury could adequately judge her credibility.

The appellant also argues that he was denied the effective assistance of counsel. We note that this argument was not made in the district court. Therefore, this court is deprived of that court's findings on the issue. *See United States* v *Lang*, 644 F.2d 1232 (7th Cir.), *cert. denied*, 102 S.Ct. 338 (1981). Assuming that the issue is properly before this Court, we note that appellant's contention that trial counsel's representation was so defective as to violate the Sixth Amendment is without merit. *See Beasley* v *United States*, 491 F.2d 687 (6th Cir. 1974).

We also find that there was sufficient evidence in the record from which the jury could have found the appellant guilty of

participation in the conspiracy and the mail fraud counts. Accordingly, we affirm the judgment entered by Judge Ralph B. Guy, Jr. of the Eastern District of Michigan.

ENTERED BY ORDER OF THE COURT
JOHN P. HEHMAN, Clerk

ISSUED AS MANDATE: MARCH 24, 1983
COSTS: NONE

(A True Copy)
Attest:
JOHN P. HEHMAN, Clerk
By: LINDA L. BRINSON, Deputy Clerk

CAS FELONY 05/23/83 CASE STATUS OPEN DEF 2 OF 2
CASE # 78007005 2 NAME CLEMENS,GWENDOLYN,YVONNE LPD 346352
D36 CRT # ARR AGCY WCOCF ALIAS

J A I L / B A I L S T A T U S			A T T O R N E Y S	D I S P O S I T I O N
JUDGE GARDNER	DATE		DEF CULPEPPER,W	
TYPE 2S CASH/OP	AMNT	50000	PRO CELESKEY,GER	
LOCN	BND #	11685	BDJ	

DOB: 00/00/00

CHGS/RESULTS	FILINGS/RESULTS
	07/18/79
	CONSOLIDATE SF

PROCEEDING	DATE	JUDGE	RESULT
PRETRIAL	07/30/79	FORD	A/CT ORDR
JURY TRI	08/23/79	FORD	I/JRY SLC
JURY TRI	09/24/79	FORD	A/CT ORDR
JURY TRI	08/27/79	FORD	PLD GLTY
SENTENCE	09/21/79	O'BRIEN	A/CT ORDR
SENTENCE	10/03/79	FORD	A/NO CRT
SENTENCE	10/11/79	FORD	A/RQ PROS
SENTENCE	10/25/79	FORD	A/RQ PROS
SENTENCE	11/29/79	FORD	A/RQ PROS
SENTENCE	12/20/79	FORD	A/RQ PROS
SENTENCE	01/10/80	FORD	A/RQ PROS
SENTENCE	02/14/80	FORD	A/RQ PROS
SENTENCE	02/28/80	FORD	A/RQ PROS
SENTENCE	03/28/80	FORD	A/RQ PR +

58

```
CAS       FELONY              05/23/83   CASE STATUS OPEN          DEF   2 OF  2
CASE #  78007005    2  NAME  CLEMENS,GWENDOLYN.YVONNE          LPD  346352
   D35 CRT #                  ARR AGCY WCCCF       ALIAS
 J A I L / B A I L   S T A T U S     A T T O R N E Y S   D I S P O S I T I O N
JUDGE GARDNER        DATE              DEF CULPEPPER,V
TYPE  22 CASH/SP     AMNT    50000     PRO CELESKEY,CEC
LCCN                 BND #   11685     BDJ

DOB: 00/00/00
 CHGS/RESULTS      FILINGS/RESULTS   PROCEEDING   DATE      JUDGE       RESULT
374012A2       01 10/20/78          WARRANT      10/20/78 KOSCINSKI    SIGNED
DEL > 225 GR      RETN PROPRTY FL   ARR-WRNT     10/20/78 GARDNER      MUTE N/G
750157A        01 10/20/78          EXAM         10/30/78 TENNEN       A/RQ PROS
CONSPIRACY        STAY PROCEED FL   ARR-INFO     10/31/78 TENNEN       WAVD B/O
374012A2       02 12/04/78          EXAM         10/31/78 TENNEN       HELD B/O
DEL > 225 GR      WITHDRAW ATT FL   PRETRIAL     11/09/78 FORD         A/RQ DEFN
                  01/05/79          PRETRIAL     12/07/78 FORD         HELD
                  F-EVID-HEARG FL   PRETRIAL     01/18/79 FORD         A/OTH LIT
                  01/05/79          MOTION       01/25/79 FORD         A/UND ADV
                  TO SUPPRESS  FL   MOTION       02/02/79 FORD         A/UND ADV
                  02/15/79          MOTION       02/05/79 FORD         A/NO CRT
                  F-DISCOVERY  MR   MOTION       02/09/79 FORD         A/UND ADV
                  07/13/79          MOTION       02/15/79 FORD         A/CT ORDR
                  ADD WITNESS  GR   PRETRIAL     03/09/79 FORD         A/OTH L +
```

Best Copy Available

CAS FELONY 05/23/83 CASE STATUS OPEN DEF 2 OF 2
CASE # 78007005 2 NAME CLEMENS,GWENDOLYN.YVONNE LPD 346352
DOB CRT # ARR AGCY WCOCF ALIAS

J A I L / B A I L S T A T U S			A T T O R N E Y S D I S P O S I T I O N
JUDGE GARDNER	DATE		DEF CULPEPPER,W
TYPE 2S CASH/OP	AMNT	50000	PRO CELESKEY.GER
LOCN	BND #	11685	BDJ

DOB: 00/00/00

CHGS/RESULTS	FILINGS/RESULTS	PROCEEDING	DATE	JUDGE	RESULT
		SENTENCE	04/24/80	FORD	A/RQ PROS
		SENTENCE	05/22/80	FORD	A/RQ PROS
		SENTENCE	06/26/80	FORD	A/RQ PROS
		SENTENCE	07/31/80	FORD	A/RQ PROS
		SENTENCE	09/11/80	FORD	A/RQ PROS
		SENTENCE	11/20/80	FORD	A/RQ PROS
		SENTENCE	12/18/80	FORD	A/RQ PROS
		SENTENCE	01/22/81	FORD	A/RQ PROS
		SENTENCE	03/19/81	FORD	A/RQ PROS
		SENTENCE	11/12/81	FORD	A/RQ PROS
		SENTENCE	12/04/81	FORD	A/RQ PROS
		SENTENCE	01/08/82	FORD	A/RQ PROS
		SENTENCE	02/12/82	FORD	A/RQ PROS
		SENTENCE	03/19/82	FORD	A/CT OR #

CAS FELONY 05/23/83 CASE STATUS OPEN DEF 2 OF 2
CASE #: 70007005 2 NAME CLEMENS,GWENDOLYN,YVONNE LPD 346352
D36 CRT # ARR AGCY WCOCF ALIAS

JAIL/BAIL STATUS		ATTORNEYS DISPOSITION
JUDGE GARDNER	DATE	DEF CULPEPPER,W
TYPE 2S CASH/OP	AMNT 50000	PRO CELESKEY,GER
LOCN	BND # 11685	BDJ

DOB: 00/00/00

CHGS/RESULTS FILINGS/RESULTS

PROCEEDING	DATE	JUDGE	RESULT
SENTENCE	04/16/82	FORD	A/RQ PROS
SENTENCE	04/30/82	FORD	A/RQ PROS
SENTENCE	09/17/82	FORD	A/RQ PROS
SENTENCE	10/29/82	FORD	A/RQ PROS
SENTENCE	12/10/82	FORD	A/RQ PROS
SENTENCE	01/14/83	FORD	A/RQ PROS
SENTENCE	02/25/83	FORD	A/RQ PROS
SENTENCE	04/01/83	FORD	A/RQ PROS
SENTENCE	05/06/83	FORD	A/RQ PROS
SENTENCE	05/20/83	FORD	A/NO REPT
SENTENCE	06/10/83	FORD	NEXT SCH